

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

TERRANCE WATSON,)	
)	
Petitioner,)	
v.)	Civil Action
)	No. 06-3349-CV-S-RED-H
JOSEPH E. GUNJA, Warden,)	
United States Medical Center for)	
Federal Prisoners,)	
)	
Respondent.)	

ORDER AND JUDGMENT

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition herein for writ of habeas corpus was referred to the United States Magistrate for preliminary review under the provisions of 28 U.S.C. § 636(b).

A Report and Recommendation was entered in this case, in which the Magistrate Judge found that the Bureau of Prisons abused its discretion in categorizing the possession of an MP3 player as a violation of Code 199, Most Like, Possession of a Hazardous Tool, Code 108. Accordingly, the Court found that petitioner had stated a claim for a constitutional violation on this issue. It was recommended that the petition for a writ of habeas corpus be granted, and that the BOP be directed to adjust the sanctions against petitioner accordingly.

Petitioner indicated that he would not file exceptions to the Magistrate's Report and Recommendation.

In response to the Report and Recommendation, respondent filed its objections, in which it is stated that petitioner received a rehearing on disciplinary issues in this case on July 2, 2007. It

is further stated that as a result of the rehearing, the Disciplinary Hearing Officer decided to expunge the Code 199 charge and the Code 108 charge. It was his finding that there was sufficient evidence to support the Code 305 charge, for which no new sanctions were imposed. Additionally, respondent states that “[w]ith the expungement of the Code 199 and Code 108 charges, the Bureau of Prisons is processing the restoration of the petitioner’s loss of 40 days of good conduct time.” [Objection to the Report and Recommendation, at 1]. Because the relief petitioner requested has been granted, respondent requests that the Court enter an order dismissing the petition in this case.

Having fully reviewed the record de novo, this Court finds that, in view of the position of the United States, petitioner has received the relief requested. Because the Bureau of Prisons has determined that there was not sufficient evidence to support the charges at issue and has expunged those charges, and because the agency is in the process of restoring petitioner’s loss of 40 days of good conduct time, the Court finds that petitioner has received the relief requested.

It is therefore

ORDERED that petitioner be, and he is hereby, denied leave to proceed in forma pauperis.

It is further

ADJUDGED that the petition herein for a writ of habeas corpus be, and it is hereby, dismissed without prejudice.

/s/ Richard E. Dorr
RICHARD E. DORR
UNITED STATES DISTRICT JUDGE

Date: July 17, 2007